

[Waiver 1994-3]

MEMORANDUM

July 12, 1994

TO: Betty Ann Krahnke, Councilmember
FROM: Jay L. Cohen, Chairman [signed]
Montgomery County Ethics Commission
SUBJECT: Waiver Request

The Montgomery County Ethics Commission has received and reviewed your request for a waiver under Section 19A-8 of the Ethics Law. You have provided the following information in support of your request.

In your memorandum, dated April 11, 1994, you indicated that you and your husband currently hold 2200 shares of stock in Federal Realty Investment Trust. This trust owns and manages 48 shopping centers on the East Coast with six shopping centers in Montgomery County.

Soon, the County Council will be taking action on the Bethesda Sector Plan and Zoning Text Amendment 93023 which will affect two properties owned and managed by Federal Realty Investment Trust. You are requesting a waiver so that you may participate in any decisions the Council takes regarding these matters.

Section 19A-11 states:

“Unless permitted by a waiver, a public employee may not participate in:

- (1) any matter that affects, in a manner distinct from its effect on the public generally, any:
 - (A) property in which the public employee holds an economic interest.”

For purposes of this opinion, the Commission assumes that the value of the shares you hold exceeds \$1,000. As a result, your ownership of shares in Federal Realty Investment Trust constitute an economic interest as defined under Section 19A-11(c) of the Ethics Law.

Section 19A-8(a) the Ethics law permits the Ethics Commission to grant a waiver to a public employee if it finds that:

- (1) the best interest of the County would be served by granting the waiver;

- (2) the importance to the County of a public employee performing his or her official duties outweighs the actual or potential harm of any conflict of interest; and
- (3) granting the waiver will not give a public employee an unfair advantage over other members of the public.

In considering your request, the Commission determined that all of these criteria were met and granted the waiver with the following condition:

You must disclose your ownership of Federal Realty Investment Trust stock at the commencement of discussions on the Bethesda Sector Plan and Zoning Text Amendment 93023 and prior to any votes that are taken by the Council on these matters.

If you have any questions regarding this decision, please do not hesitate to contact the Commission.

BMM:dw